

MINUTES
BOARD FOR LICENSING HEALTH CARE FACILITIES
November 2, 2005

The Board for Licensing Health Care Facilities was called to order by Dr. Larry Arnold on November 2, 2005, commencing at 8:00 a.m.

Ms. Green called the roll to establish a quorum.

Dr. Larry Arnold, Chairman
Dr. James T. Galyon, Chairman Pro Tem
Dr. Duane Budd
Ms. Charlotte Burns
Ms. Elizabeth Chadwell
Mr. Alex Gaddy
Mr. Robert Gordon
Mr. C. Luke Gregory
Mr. Jim Hastings
Mr. Albert Jones
Dr. Douglas Leahy
Ms. Carissa Lynch
Dr. Ronald C. Staples

Members not present:

Ms. Annette Marlar
Ms. Nancy Peace
Dr. Joe T. Walker
Mr. Carlyle Walton
Mr. James Weatherington
Dr. Jon Winter

Present and representing the Office of General Counsel:

Mr. Richard Russell

Also present:

Ms. Cathy Green, Director, Board for Licensing
Ms. Katy Gammon, Director, Health Care Facilities
Ms. Faye Vance, East TN Regional Administrator
Ms. Shirley Jones, West TN Regional Administrator
Ms. Nina Monroe, Middle TN Regional Administrator
Mr. Bill Harmon, Director of Engineering

A quorum was established by roll call vote.

REPORTS TO THE BOARD

Department Report

No verbal reports were given due to two contested case hearings were scheduled. The written copies of the reports were given to each board member to view.

The Department was not able to schedule a rulemaking hearing regarding the advance directives forms and the POST form prior to this November board meeting. The rulemaking hearing will be held on November 15, 2005.

APPROVAL OF MINUTES

The next order of business was the approval of the August 3, 2005 minutes.

Motion was made by Dr. Galyon, seconded by Dr. Budd to approve the minutes as written and the quarterly report updates that were circulated.

Motion carried.

WAIVER REQUESTS

Ms. Green gave a brief summary of each of the following waiver requests:

TENNESSEE CHRISTIAN MEDICAL CENTER, PORTLAND

The Board granted a waiver to this facility in August, 2005 allowing Tennessee Christian Medical Center-Portland to separate their license as a satellite from Tennessee Christian Medical Center-Madison which is their main campus to pursue critical access status.

Due to time constraints, the facility has decided not to pursue such status so they're now appearing back before the Board requesting their license be combined with Tennessee Christian Medical Center-Madison again allowing them to operate as a 38-bed satellite hospital.

Mr. Eddie Smith, Administrator at Tennessee Christian Medical Center in Portland explained to the Board the applications they had filed and forwarded to CMS for approval. CMS is requiring that they convert as an acute care hospital and then reconvert as a critical access. Due to the time frames now and the end of the year to make that happen, they did not see the possibility of being successful. This is the reason for their request to revert back to their previous status.

Motion was made by Dr. Leahy, and seconded by Ms. Burns to:

RESCIND THE REQUEST GRANTED AUGUST 3rd, 2005 AND REVERT BACK TO THEIR ORIGINAL STATUS AS A SATELLITE HOSPITAL EFFECTIVE IN AUGUST.

Motion carried by voice vote.

Dr. Leahy had requested for the record due to this issue may come up again to show CMS's position relative to the movement from a combined hospital to an acute care and critical care access. Mr. Smith presented a copy of the letter from CMS to the Board for future reference.

THE WEBB HOUSE RETIREMENT CENTER, INC., SMITHVILLE

This thirty-eight (38) bed facility is seeking a waiver to allow their license be placed in an inactive status until such time as they can rebuild the facility. The building was destroyed by fire on May 29, 2005.

Mr. Allen Webb, Administrator and Owner of the Webb House explained to the Board that as soon as the insurance pay for the damages they will begin to build. Mr. Webb has already obtained an architect. Mr. Webb has requested to be placed on an inactive status for one year to hopefully be able to finalize everything and to rebuild. Mr. Webb stated if it's going to take longer, he will request to come back before the board.

Motion was made by Dr. Galyon, and seconded by Dr. Staples to:

**ALLOW THE WEBB HOUSE RETIREMENT CENTER TO PLACE THEIR
LICENSE IN AN INACTIVE STATUS FOR TWELVE (12) MONTHS.**

Motion carried by voice vote.

TONY RICE CENTER, INC., SHELBYVILLE

This fourteen (14) bed alcohol and drug treatment center for women is seeking a waiver to place their license in an inactive status while they proceed with the construction of a new facility. They anticipate the construction to be completed within eight (8) to twelve (12) months.

Tony Harris, a counselor from the Tony Rice Center explained to the Board that the reason for the closing was problems with the septic and the sewer system. They had explored all options and it was not feasible to correct this problem. They have obtained an architect and they want to place their license in an inactive status to give them time hopefully by August 2006 for their building to be complete.

Motion was made by Dr. Galyon, and seconded by Mr. Jones to:

**ALLOW THE TONY RICE CENTER, INC TO PLACE THEIR LICENSE IN AN
INACTIVE STATUS FOR TWELVE (12) MONTHS.**

Motion carried by voice vote.

CONSENT CALENDAR**THE FOLLOWING FACILITIES WERE GRANTED WAIVERS TO PROVIDE OUTPATIENT THERAPY SERVICES AS PROVIDED FOR BY BOARD POLICY #32:**

Briarcliff Health Care Center, Oak Ridge
The Blakeford at Green Hills, Nashville

THE FOLLOWING FACILITIES WERE GRANTED WAIVERS TO PROVIDE SHARE SERVICES BETWEEN TWO LICENSED FACILITIES IN ACCORDANCE WITH BOARD POLICY #51:**MCKENZIE RETIREMENT CENTER, II, MCKENZIE**

McKenzie Retirement Center is in process of becoming two separately licensed RHA facilities with eleven (11) beds in each building as the city will not provide water in order for the facility to meet sprinkler requirements. The facility is requesting the two separately licensed buildings be allowed to share the same kitchen and laundry space. Both buildings will have their own dining area.

BEVERLY PARK PLACE, ACLF, KNOXVILLE

Beverly Park Place ACLF is requesting to share kitchen and laundry space with Hillcrest HealthCare North Nursing Home, a separately licensed facility that is located in the same building on the upper floors. Both facilities are under the same ownership.

Motion was made by Dr. Galyon and seconded by Dr. Budd to:

APPROVE THE CONSENT CALENDAR EXCEPT MCKENZIE RETIREMENT CENTER. FURTHER DISCUSSION IS NEEDED REGARDING MCKENZIE.

Motion carried by voice vote.

Dr. Galyon opened the discussion on McKenzie Retirement Center. Dr. Galyon was concerned that the city would not provide water for sprinklering of the facility. Dr. Galyon wanted someone to assure the Board that those residents will not be in any danger. Ms. Green assured the Board that the Department had conversations with the administrator and with the facility for several weeks on this issue. Ms. Green stated that the law that passed requiring sprinklers of nursing homes, homes for the aged and assisted living did have a caveat that said that they could have a time extension if the local municipality was unable to provide adequate water supply to the facility which the Department are finding in some of the rural areas. Ms. Katy Gammon, Director of Health Care Facilities reminded the Board that this was background information and that the Board is not voting for approving the building plan or license. The Board is voting to allow McKenzie to share services if the building meets the standards. Ms. Green stated that our engineering staff is continuing to work with their representative to make sure everything would be approved and meet the standards.

Motion was made by Mr. Gordon and seconded by Mr. Hastings to:

APPROVE MCKENZIE RETIREMENT CENTER TO SHARE KITCHEN AND LAUNDRY SERVICES ACCORDING TO BOARD POLICY #51.

Motion carried by voice vote.

QUARTERLY REPORT UPDATE

A representative from Thornton Residential Home was not in attendance to present their report. Ms. Nina Monroe, Regional Administrator from Middle Tennessee Regional Office gave her report regarding follow-up surveys on October 28, 2005 and for fire safety on October 24, 2005 on Thornton Residential Home. The fire safety deficiencies were found back in compliance. Administrative deficiencies were cited in four (4) different areas: Interdisciplinary assessments, expired medication, incomplete records, and physician's assessment and health information for one resident.

Motion was made by Dr. Galyon, and seconded by Dr. Staples to:

ACCEPT THE REPORT PRESENTED BY THE MIDDLE TENNESSEE REGIONAL OFFICE REGARDING THORNTON RESIDENTIAL HOME.

Motion carried by voice vote.

Ms. Green stated that this board required through an agreement prior to a contested case that this facility make a presentation before this board on a quarterly basis for the next four quarters. Richard Russell, Attorney, Office of General Counsel gave the board advice on options in how to proceed due to Thornton's nonappearance. Further discussion was made and a suggestion was made by Mr. Gordon to table this matter to give our legal office time to check the record and secondly, allow more time for other business on the agenda and bring this case back later.

Motion was made by Dr. Budd, and seconded by Mr. Gaddy to:

TABLE THIS DISCUSSION REGARDING THORNTON RESIDENTIAL HOME UNTIL FURTHER INFORMATION CAN BE DETERMINED.

Motion carried by voice vote.

REGULATIONS

BOARD APPROVAL TO GO TO RULEMAKING HEARING

1. **Hospital (1200-8-1)**
 - a. Admissions, Discharges and Transfers-allows hospice to lease space from hospitals for hospice patient care (PC0056);
 - b. Records and Reports-SB0361-extends # days for hospital JAR filing, CEO and CFO signatures (PC0023);

- c. Basic Services-revises surgical tech waiver to 9 months and requires evidence of continued competence (PC0159);
 - d. Building Standards-requires keyed lock boxes for elevators in HCFs (PC404);
 - e. Optional Services-changes requirements of advance directive and organ donation forms to be completed prior to surgery to “when applicable”.
2. **Nursing Home (1200-8-6)**
- a. Building Standards-requires keyed lock boxes for elevators in HCFs (PC404)
 - b. Administration-requires LTC facilities to maintain adequate liability insurance and to dispose prior to admission (PC 184)
3. **Home Care Organizations**
Home Health, Hospice, Home Medical Equipment (1200-8-26, 1200-8-27, 1200-8-29)
4. **Assisted Care Living Facilities (ACLF 1200-8-25)**
- a. Administration-allows RN to pronounce death when anticipated and MD agrees to sign death certification (PC0222)
 - b. Building Standards-requires keyed lock boxes for elevators in HCFs (PC404)
 - c. Administration-requires LTC facilities to maintain adequate liability insurance and to disclose prior to admission (PC 0184)
 - d. Licensing-Deletion of informal dispute resolution process-administrative cleanup of regulations-this is a process used for federal citations.
5. **Residential Homes for the Aged (1200-8-11)**
- a. Administration-requires LTC facilities to maintain adequate liability insurance and to disclose prior to admission (PC 0184)
 - b. Definitions-RHA changes from 1 to 3 (less than 4 residents) for licensure requirements (PC0158);
 - c. Building Standards-emergency keyed lock box next to elevators (PC404)
6. **Quality Enabling:**
- a. Administration-Removes “less patient income” from QEP for \$13 flat payment (PC477)
7. **A&D Regulations (exempts RTE, NRMTE)**
- a. Administration and Definitions-allows multiple sites under same ownership to operate as a branch office if within 100 miles of parent office and has sufficient administrative oversight by parent office (PC0176)
9. **Ambulatory Surgical Treatment Facilities (ASTC)**
- a. Surgical Services-Surgical Technologists’ competency requirements
 - b. Building Standards-requirement of emergency keyed lock box next to elevators (PC404)
10. **Outpatient Diagnostic Centers**
- a. Definitions-sets definition for ODC (PC 383)

11. Residential HIV Supportive Living

- a. Building Standards-requirement of emergency keyed lock box next to elevators.

Motion was made by Dr. Galyon, seconded by Ms. Chadwell to:

SEND THE VARIOUS RECOMMENDATIONS FOR HOSPITALS, NURSING HOMES, HOME CARE ORGANIZATIONS, ASSISTED CARE LIVING FACILITIES, RESIDENTIAL HOMES FOR THE AGED, QUALITY ENABLING, A&D REGULATIONS (EXEMPT RTF, NRMTF), AMBULATORY SURGICAL TREATMENT FACILITIES, OUTPATIENT DIAGNOSTIC CENTERS AND RESIDENTIAL HIV SUPPORTIVE LIVING RULES FOR RULEMAKING HEARING. ALSO, REMOVE SECTION 1200-8-18-.02(4) FROM THE NONRESIDENTIAL ALCOHOL AND DRUG TREATMENT FACILITY REGULATIONS.

Motion carried by voice vote.

QUARTERLY REPORT UPDATE-Continued

Richard Russell, Attorney presented a copy of the Order for Thornton Residential Home and he stated that this is an Order of Probation that requires a return to the Board on a quarterly basis during the term of probation for one year. The nonappearance of a representative for Thornton leaves the board several options either giving them another opportunity to come for the next scheduled board meeting or as much as suspension of the license. From this logistical standpoint, another case would be opened in OGC for violation of a Board Order. This would be a separate action initiated by the Board. Several board members wanted to give adequate time for a representative of Thornton to come to the meeting before the end of the day in case of travel situation or problems.

Motion was made by Mr. Gordon, seconded by Dr. Budd to:

TABLE THIS MOTION A SECOND TIME AND DISCUSS AGAIN BEFORE THE CLOSE OF BUSINESS.

Motion carried by voice vote.

Ms. Cathy Green wanted to thank the board members for the nice comments, emails and phone call regarding her new job. Ms. Green also announced that Mr. Richard Russell, Attorney of the Office of General Counsel was also leaving the State as well. Mr. Russell announced that Chris Puri was leaving Tennessee Health Care Association and he was taking Mr. Puri's position. He expressed his excitement of being able to continue to work with a lot of people that he has work with currently. Mr. Russell also announced that an attorney has been hired solely for Health Care Facilities. The attorney will be starting within the next two weeks and will be at the next scheduled board meeting.

THORNTON RESIDENTIAL HOME FOR THE AGED-ADDITIONAL DISCUSSION

No one from Thornton Residential Home appeared before the Board. There were discussion among the board members and the Department attorneys regarding this matter because Ms. Lyon has violated her conditions of the Agreed Order.

Motion was made by Mr. Gregory, seconded by Ms. Chadwell to:

ACKNOWLEDGE THAT MS. JANICE LYON, ADMINISTRATOR AND OWNER OF THORNTON RESIDENTIAL HOME IS IN VIOLATION OF THE CONDITIONS OF THE AGREED ORDER.

Motion carried by voice vote.

AGREED ORDER: SENIOR CARE NURSING HOME

Ms. Wilma James, Attorney, Office of General Counsel stated that the owner of Senior Care Nursing Home has decided that in lieu of further disciplinary action by this board against their license that they would agree to surrender the license.

Motion was made by Dr. Galyon, seconded by Mr. Hastings to:

ACCEPT THE TERMS OF SENIOR CARE NURSING HOME TO SURRENDER THEIR LICENSE AND ACCEPT THE AGREED ORDER.

Motion carried by voice vote.

With all business concluded, Dr. Arnold adjourned the meeting.

Respectfully submitted,

James T. Galyon, M.D.